

**MINUTES OF THE
BUSINESS AND LABOR INTERIM COMMITTEE**
Wednesday, July 18, 2007 – 9:00 a.m. – Room W125 House Building

Members Present:

Sen. Kevin T. VanTassell, Senate Chair
Rep. Stephen D. Clark, House Chair
Sen. Gene Davis
Sen. John W. Hickman
Sen. Ed Mayne
Sen. Wayne L. Niederhauser
Rep. David Clark
Rep. Ben C. Ferry
Rep. Kevin S. Garn
Rep. Todd E. Kiser
Rep. Karen W. Morgan
Rep. Michael T. Morley
Rep. Paul A. Neuenschwander
Rep. Gordon E. Snow
Rep. Mark W. Walker

Members Absent:

Sen. Dan R. Eastman
Rep. Jackie Biskupski
Rep. Carl W. Duckworth
Rep. James A. Dunnigan

Staff Present:

Ms. Allison M. Nicholson, Policy Analyst
Ms. Patricia Owen, Associate General Counsel
Ms. Phalin L. Flowers, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair S. Clark called the meeting to order at 9:08 a.m. Rep. Duckworth and Rep. Dunnigan were excused from the meeting.

MOTION: Rep. Ferry moved to approve the minutes of the June 20, 2007 meeting. The motion passed unanimously with Rep. Garn absent for the vote.

2. Report: Title Insurance Complaints

Mr. John Braun, Assistant Commissioner, Utah Insurance Department, discussed the report on title insurance complaints that was mailed to committee members before the meeting. He also provided the Committee background information on the title insurance industry and the Title and Escrow Commission.

3. Employer Hiring and Payment Procedures

Ms. Nicholson and Ms. Owen distributed and discussed "Hiring Workers: General Overview." They discussed how employers can verify employee eligibility through I-9 forms and the federal Basic Pilot Program; how employers classify employees (sometimes incorrectly) and the possible consequences; what other states have done to address these issues; and recent proposals by advocates.

A. Employee Verification

Mr. Jim Olsen, President, Utah Retail Merchants Association, said most retailers use the I-9 Form to verify the identification of potential employees. He said a difficulty for retailers is that they are not allowed to state what types of forms of identification they will accept.

Mr. Tom Bingham, President, Utah Manufacturers Association, responded to questions from the Committee.

Mr. Chad Rowley, Payson Fruit Growers, spoke to the Committee about the success his company has had with the H-2A certification program and how he would like to see the H-2B certification program started. He also explained that there are individuals who are younger than 16 who want to work for his company, but are not allowed to do many of the jobs because of current laws.

Ms. Sherrie Hayashi, Commissioner, Utah Labor Commission, explained that one of the purposes of the Labor Commission is to advocate for employees who feel they have been treated unfairly by employers or not paid their full wages. She said that an employee is eligible for the Labor Commission's services, regardless of the employee's work status.

Mr. Bill Starks, Director, Division (Division of Unemployment Insurance), Department of Workforce Services, explained that the Division collects wage and new hire registry data for the state and discussed the issue of identity theft. He said the Division is now allowed to alert an individual that the individual's social security number may have been compromised.

Mr. Richard Hamp, Assistant Attorney General, Utah Attorney General's Office, spoke to the Committee about the rate of identity theft in the state. He said the federal Basic Pilot Program is accessible online, but that it only checks that a name matches a social security number. He said that a large majority of the identity theft he has seen has been unsophisticated and the name does not match the social security number.

B. Pay Practices in the Construction Industry

Sen. Mayne distributed "Utah Construction Industry Forum" and a Deseret Morning News article titled "Unethical contractors in spotlight." He explained that he is concerned with this issue because legitimate companies in the construction industry are being taken advantage of by unethical companies who do not pay taxes on their employees or offer them benefits.

Mr. Richard Thorn, President and CEO, Associated General Contractors of Utah, said there are currently processes in place to penalize construction companies who do not follow guidelines and rules. He cautioned against creating more regulation for independent contractors.

Mr. Taz Biesinger, Executive Vice President, Utah Home Builders Association, agreed with Mr. Thorn's comments and expressed concern that new regulation would further burden people who are already complying with current law.

Mr. Dennis Lloyd, General Counsel, WCF (Workers' Compensation Fund), distributed and discussed a letter and packet of information from WCF concerning Utah statutory employee exclusion endorsement, including "Growth in Waivers 2001 to 2007." He also distributed and discussed "Utah Statutory Employee Exclusion Endorsement Recommendations." He provided four recommendations to the Committee to help remedy the problem of misclassifying workers.

Mr. Mark Shurtleff, Utah Attorney General, spoke to the Committee about the possibility of penalizing an employer who does not take action when the employer is informed that an employee has a nonmatching social security number.

Due to lack of time, this agenda item was not completed.

4. Remedy for Alleged Sexual Harassment

Due to lack of time, this item was not discussed.

5. Other Items / Adjourn

MOTION: Sen. Davis moved to adjourn the meeting. The motion passed unanimously with Rep. Garn absent for the vote.

Chair S. Clark adjourned the meeting at 12:00 p.m.